

RECEIVED

ORIGINAL

JAN - 6 1993
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL
FILE

In the Matter of)

BILLED PARTY PREFERENCE FOR 0+)
INTERLATA CALLS)

CC Docket No. 92-77
Phase I

SUPPLEMENTAL REPLY COMMENTS OF SPRINT CORP.

In its Supplemental Comments, Sprint Corporation discussed the legal and practical difficulties inherent in mandatory call transfer compensation and argued that any system of call transfer compensation should be purely voluntary, both on the part of the presubscribed OSPs and card-issuing IXCs.

There are only a few points in the initial supplemental comments of other parties that merit additional comment. First, while AT&T is the only card-issuing IXC that has been specifically identified by other parties as creating a need for call transfer compensation, certain proponents of such compensation (many of whom urge mandatory participation on the part of the card-issuer) define their proposals in such broad terms that they would encompass other IXCs as well.¹ For example, ITI/ONCOR

¹By contrast, other parties make clear the scope of their proposed mandatory compensation schemes. See, e.g., Intellicall at 9 ("AT&T should be required to enter into reasonable transfer agreements..."), ClearTel/IPI/Teltrust at 1 ("an IXC [that] issues or has issued proprietary calling cards with instructions to use 0+ dialing"), and CompTel at 9 ("now and for the foreseeable future, only AT&T is able to issue such proprietary '0+' cards") and at 19 ("AT&T be required to subscribe to OSP transfer services").

No. of Copies rec'd
List A B C D E

276

urges (at 2) "mandatory participation by all 0+ proprietary card issuers" without ever having defined that term. As Sprint Communications Co. pointed out in its June 2, 1992 Comments in this proceeding (at 8), it is impossible for card-issuing IXCs that use 10XXX access to block 0+ access even though they have always instructed their customers always to dial an access code to reach their operator services. Thus, in cases where the phone is presubscribed to the card-issuing IXC, a caller dialing 0+ will be able to reach the IXC. If such IXCs are deemed to be "0+ proprietary card issuers", they would be brought under ITI/ONCOR's proposal even though their business practices have not created any problems for operator service providers.

Similarly, U.S. Long Distance, Inc. argues (at 11) for "[m]andatory CIID card IXC participation" in a system of call transfer compensation. While, as far as Sprint is aware, AT&T is the only IXC that has issued cards in the CIID format to date, it is possible that other IXCs may do so in the future in order to position themselves for the implementation of billed party preference. So long as those carriers do not instruct their customers to dial 0+ from nonpresubscribed phones, there is no predicate for including such carriers in a mandatory compensation scheme. PhoneTel Technologies, Inc. also supports compensation "by issuers of proprietary IXC calling cards" (at 1), even though it acknowledges (at 2) that AT&T is the only carrier to have encouraged use of its calling cards on a 0+ basis from all telephones.

These broad proposals lend credence to Sprint's concern (Supplemental Comments at 4) that presubscribed OSPs would

encourage 0+ dialing by customers of all IXC's -- even those who, like Sprint, have never instructed their customers to dial 0+ for calling card calls -- simply to tap a new source of revenue from those carriers. If the Commission attempts to mandate a system of call transfer compensation,² it should confine the system only to those entities whose practices have created problems for the industry.

The proponents of mandatory call transfer services generally favor the tariff mechanism for implementing transfer compensation without explaining how card-issuing IXC's can be forced to purchase services under such tariffs. For example, LDDS (at 10) and PhoneTel (at 12) both state that the card-issuing IXC's will "subscribe" to the tariffed service by using it, explaining that if a card-issuing IXC does not wish to utilize the service, it can simply block all calls other than access code calls from its cardholders. This ignores the problem, discussed above and acknowledged by the Commission in its November 6, 1992 Report and Order herein (paras. 31-33), that IXC's who utilize 10XXX access cannot presently reject 0+ calls. Capital Network Systems (n. 20 at 10) argues that the Commission has authority under Section 201 to require AT&T to subscribe to transfer tariffs. However, it

²As Sprint observed in its Supplemental Comments (at 5-6), the only way to mandate card-issuer participation in such a compensation system would be through establishing through routes, through rates and divisions of tolls under Section 201(a), and in view of the impending changes in the industry that should greatly reduce the need for call transfer in the first place, Sprint does not believe the Commission could make the necessary findings to do so, and, moreover, any such attempt would entail a massive regulatory undertaking.

does not explain how Section 201 gives the Commission authority to compel any person to subscribe involuntarily to tariffed services of a carrier, and the case it cites (Bell Tel. Co. of Penn. v. FCC, 503 F.2d 1250 (3rd Cir. 1974) is inapposite. In that case, the Court affirmed an FCC order requiring the Bell System companies to furnish their tariffed services to MCI over their objection; it did not require MCI to order tariffed services from the Bell System that it did not wish to utilize.

In short, none of the other commentators has shown any policy basis for requiring IXCs, like Sprint, that have never instructed their customers to dial calls on a 0+ basis, to be included in any mandatory call transfer compensation system, and have not shown how such a mandatory system can lawfully be implemented, short of a massive through routes, through rates and divisions of tolls proceeding.

Respectfully submitted,

SPRINT CORPORATION



Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
1850 M Street, N.W., 11th Floor
Washington, D.C. 20036
(202) 857-1030

Craig T. Smith
P. O. Box 11315
Kansas City, MO 64112
(913) 624-3065

January 6, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Supplemental Reply Comments" of Sprint Corporation were sent via first class mail, postage prepaid, on this the 6th day of January, 1993, to the below-listed parties:

Cheryl Tritt, Chief*
Common Carrier Bureau
Federal Communications
Commission
1919 M Street, N.W., #500
Washington, D.C. 20554

Kathleen B. Levitz, Deputy
Bureau Chief (Policy)*
Federal Communications
Commission
1919 M Street, N.W., #500
Washington, D.C. 20554

James Schlichting*
Chief, Policy & Program
Planning Division
Federal Communications
Commission
1919 M Street, N.W., #544
Washington, D.C. 20554

Downtown Copy Center*
1919 M Street, N.W., #246
Washington, D.C. 20554

Gary Phillips*
Policy & Program Planning
Division
Federal Communications
Commission
1919 M Street, N.W., #544
Washington, D.C. 20554

Mitchell F. Brecher
Donelan, Cleary, Wood & Maser, P.C.
1275 K Street, N.W.
Suite 850
Washington, D.C. 20005-4078
Attorneys for LDDS Communications,
Inc.

Gregory M. Casey
Jane A. Fisher
International Telecharge, Inc.
d/b/a Oncor Communications,
Inc.
6707 Democracy Blvd.
Bethesda, MD 20817

W. Audie Long
Kenneth F. Melley
U.S. Long Distance, Inc.
9311 San Pedro
Suite 300
San Antonio, TX 78216

Mitchell F. Brecher
Donelan, Cleary, Wood & Maser,
P.C.
1275 K Street, N.W.
Suite 850
Washington, D.C. 20005-4078
Attorney for PhoneTel
Technologies, Inc.

Genevieve Morelli
Vice President & General Counsel
Competitive Telecommunications
Association
1140 Connecticut Avenue, N.W.
Suite 220
Washington, D.C. 20036

Jean L. Kiddoo
Ann P. Morton
Swidler & Berlin, Chartered
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007
Counsel for Cleartel Communications,
Inc., International Pacific, Inc.,
and Teltrust Communications
Services, Inc.

Randolph J. May
David A. Gross
Elizabeth C. Buckingham
Sutherland, Asbill & Brennan
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2404
Attorneys for Capital Network
System, Inc.

James E. Taylor
Richard C. Hartgrove
John Paul Walters, Jr.
Attorneys for Southwestern Bell
Telephone Company
1010 Pine Street
Room 2114
St. Louis, MO 63101

Mary J. Sisak
Donald J. Elardo
MCI Telecommunications Corporation
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Francine J. Berry
Robert J. McKee
Rhcard H. Rubin
American Telephone & Telegraph
Company
Room 34244J1
295 North Maple Avenue
Basking Ridge, NJ 07920

Richard E. Wiley
Brad E. Mutschelknaus
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Attorneys for Competitive
Telecommunications Assoc.

Randall B. Lowe
Charles H.N. Kallenbach
Jones, Day, Reavis & Pogue
1450 G Street, N.W.
Washington, D.C. 20005-2088
Attorneys for One Call
Communications, Inc. d/b/a
OPTICOM

Judith St. Ledger-Roty
Michael R. Wack
Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036
Attorneys for Intellicall, Inc.

John C. Fudesco
Value-Added Communications
5701 N. 25th Street
Arlington, VA 22207

John W. Hunter
McNair Law Firm, P.A.
1155 15th Street, N.W.
Washington, D.C. 20005
Attorney for Rock Hill
Telephone Company

Steven J. Hogan
President
LinkUSA Corporation
230 Second Street, S.E.
Suite 400
Cedar Rapids, Iowa 52401

Randolph J. May
Elizabeth C. Buckingham
Sutherland, Asbill & Brennan
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2404
Attorneys for National Tele-Sav,
Inc.

Amy S. Gross
Joseph M. Sandri, Jr.
Amnex, Inc.
2701 Summer Street
Stamford, CT 06905

James L. Wurtz
Pacific Bell/Nevada Bell
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Albert H. Kramer
Robert F. Aldrich
Keck, Mahin & Cate
1201 New York Ave., N.W.
Penthouse Suite
Washington, D.C. 20005-3919
Attorneys for American Public
Communications Council

James P. Tuthill
Nancy C. Woolf
Pacific Bell/Nevada Bell
140 New Montgomery Street
Room 1523
San Francisco, CA 94105


Ruth Goddard

January 6, 1993

*BY HAND